

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

EUGENIO GARCIA-IBARRA,

Petitioner,

v.

No. 23-cv-0108 JB-KRS

GEORGE STEVENSON, *et al*,

Respondents.

ORDER TO CURE DEFICIENCIES

This matter is before the Court on Petitioner Eugenio Garcia-Ibarra's 28 U.S.C. § 2254 Habeas Petition (Doc. 1) (Petition). Garcia-Ibarra is incarcerated and proceeding *pro se*. Fellow inmate Rick Stallings signed the Petition under oath on behalf of Garcia-Ibarra. *See* Doc. 1 at 12. Stallings states "he has [Garcia-Ibarra's] permission to do this [habeas] appeal." *Id.* *Pro se* parties cannot sign documents or prosecute a federal action on behalf of other litigants. As the Tenth Circuit explained, "the competence of a layman is clearly too limited to allow him to risk the rights of others." *Fymbo v. State Farm Fire and Cas. Co.*, 213 F.3d 1320, 1321 (10th Cir. 2000) (quoting *Oxendine v. Williams*, 509 F.2d 1405, 1407 (4th Cir. 1975)); *see also* *Amaro v. Att'y Gen. for New Mexico*, 781 Fed. App'x 693, 695 (10th Cir. 2019) (affirming dismissal of class action habeas claims because a *pro se* petitioner cannot represent other inmates).

If Garcia-Ibarra seeks habeas relief, he must sign and file his own pleading. The Clerk's Office will mail Garcia-Ibarra a blank § 2254 petition, a blank *in forma pauperis* motion, and a reference copy of the opening pleading signed by Stallings. The docket will be updated to reflect Garcia-Ibarra's address at the Western New Mexico Correctional Facility (WNMCF) in Grants, New Mexico, rather than Stalling's address at the Lea County Correctional Facility. *See* Doc. 1 at 1 (acknowledging that Garcia-Ibarra is now housed at WNMCF). Garcia-Ibarra must return


the signed § 2254 petition within thirty (30) days of entry of this Order. By the same deadline, Garcia-Ibarra must either prepay the \$5 habeas filing fee or, alternatively, file a motion to proceed *in forma pauperis*. Any *in forma pauperis* motion must attach an inmate account statement reflecting transactions for a six-month period. All filings must include the case number (23-cv-0108 JB-KRS). If Garcia-Ibarra fails to timely comply with both directives (*i.e.*, file a signed § 2254 petition and address the \$5 habeas filing fee), this case may be dismissed without further notice.

IT IS ORDERED that the Clerk's Office shall modify the docket to reflect Garcia-Ibarra's current address as:

Eugenio Garcia-Ibarra, # 88844
Western New Mexico Correctional Facility
P.O. Box 800
Grants, New Mexico 87020

IT IS FURTHER ORDERED that the Clerk's Office shall **MAIL** Garcia-Ibarra a blank § 2254 petition; a blank motion to proceed *in forma pauperis*; and a reference copy of the opening pleading signed by Stallings (**Doc. 1**).

IT IS FINALLY ORDERED that within thirty (30) days of entry of this Order, Garcia-Ibarra must: (1) sign and file a § 2254 petition; and (2) prepay the \$5 filing fee or, alternatively, file a motion to proceed *in forma pauperis* along with an inmate account statement reflecting transactions for a six-month period.


UNITED STATES MAGISTRATE JUDGE